



## Record of Decision

DEC 22-H5

In the Matter of

Applicant Cameco Corporation

Subject Application to Amend the Beaverlodge Waste Facility Operating Licence to Remove 18 Properties and Facilitate their Transfer to Saskatchewan's Institutional Control Program

Public Hearing  
Date March 24, 2022

Record of  
Decision Date September 7, 2022

**RECORD OF DECISION – DEC 22-H5**

Applicant: Cameco Corporation

Address/Location: 2121 11<sup>th</sup> Street West, Saskatoon SK, S7M 1J3

Purpose: Application to amend the Beaverlodge Waste Facility Operating Licence to remove 18 properties and facilitate their transfer to Saskatchewan’s Institutional Control Program

Application received: July 14, 2021

Notices of public hearing: August 9, 2021  
October 18, 2021

Date of public hearing: March 24, 2022

Location: Virtual hearing

Members present: R. Velshi, Chair  
M. Lacroix

Registrar: D. Saumure  
Recording Secretary: M. Young  
Senior General Counsel: L. Thiele

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See appendix A		
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**Licence: Amended**  
**Exemption to the Province of Saskatchewan: Authorized**

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## 1.0 INTRODUCTION

1. Cameco Corporation (Cameco) has applied to the Canadian Nuclear Safety Commission<sup>1</sup> for the amendment of the Waste Facility Operating Licence (WFOL), WFOL-W5-2120.1/2023, for its Beaverlodge mine and mill site located in northern Saskatchewan, situated within historic Treaty 8 (1899) and the Homeland of the Métis, and within the traditional territories of the Dene, Cree, and Métis peoples. Cameco is seeking the removal of 18 properties, as set out in the figure within appendix A of WFOL-W5-2120.1/2023, to enable their transfer to Saskatchewan's [Institutional Control Program](#) (ICP), for which the Saskatchewan Ministry of Energy and Resources (SMER) is the provincial authority. Cameco's licence is valid until May 31, 2023.
2. The decommissioned Beaverlodge mine and mill site currently consists of 45 individual properties licensed by the CNSC, and is located in northwestern Saskatchewan, approximately 8 kilometres from Uranium City. Historical mining activities in these areas were conducted primarily within 2 watersheds, the Ace Creek Watershed and the Fulton Creek Watershed, which both feed into Beaverlodge Lake. Decommissioning was completed in 1985. The current licence authorizes Cameco to manage ongoing reclamation, maintenance and monitoring activities at the Beaverlodge properties.
3. The Province of Saskatchewan established the ICP in 2007 in order to provide for the long-term monitoring and maintenance of former mine/mill sites located on provincial Crown land. Saskatchewan's provincial legislation establishing the ICP, [The Reclaimed Industrial Sites Act](#)<sup>2</sup> and [The Reclaimed Industrial Sites Regulations](#)<sup>3</sup>, requires that any property accepted into the ICP be released from any and all licences that are issued by regulatory agencies, including those issued by the CNSC pursuant to the [Nuclear Safety and Control Act](#)<sup>4</sup> (NSCA), thus reverting total custodial responsibility back to the Province of Saskatchewan. The Commission previously accepted performance objectives and performance indicators to determine whether properties can be released from licensing under the NSCA and accepted into the ICP.
4. If the Commission accepts Cameco's application to remove the 18 properties from its licence in order to enable a transfer to the ICP, an exemption by the Commission under section 7 of the NSCA for the Province of Saskatchewan would also be needed. Once these properties enter the program, the Province of Saskatchewan will be responsible for the monitoring and maintenance of the sites, and for the response to any unforeseen events.

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<sup>1</sup> The *Canadian Nuclear Safety Commission* is referred to as the "CNSC" when referring to the organization and its staff in general, and as the "Commission" when referring to the tribunal component.

<sup>2</sup> Chapter R-4.21 of The Statutes of Saskatchewan, 2006 (effective March 1, 2007), as amended by the Statutes of Saskatchewan, 2014, c.E-13.1; and 2018, c.32.

<sup>3</sup> Chapter R-4.21 Reg 1 (effective March 21, 2007) as amended by Saskatchewan Regulations 109/2010, 80/2018 and 110/2021.

<sup>4</sup> S.C. 1997, c. 9.

5. This is the third application by Cameco pertaining to the release of decommissioned Beaverlodge properties from licensing under the NSCA for transfer to the ICP. In 2009, the Commission [granted](#)<sup>5</sup> Cameco an exemption from licensing with respect to 5 Beaverlodge properties. In 2013, the Commission [renewed](#)<sup>6</sup> Cameco's licence, WFOL-W5-2120.0/2023, for a period of 10 years. In 2019, the Commission [amended](#)<sup>7</sup> Cameco's licence, granting a release of 20 properties from the licence, of which 19 properties, or portions thereof, were transferred to the ICP. The Commission, in amending the licence, found that the properties met the performance objectives and performance indicators in order for the sites to be released from licensing under the NSCA.

### Issues

6. The Commission is required to determine whether and what requirements the [Impact Assessment Act](#)<sup>8</sup> (IAA) imposes in relation to the activities sought to be authorized in Cameco's application to amend the waste facility operating licence for its Beaverlodge mine and mill site. Satisfying any such requirements can be a prerequisite to a licensing decision.
7. In determining whether to release 18 Beaverlodge properties from licensing under the NSCA for acceptance into the ICP, the Commission is considering:
  - a) whether the performance objectives and performance indicators previously accepted by the Commission in order for the sites to be released from licensing under the NSCA and accepted into the ICP remain appropriate; and
  - b) whether the 18 Beaverlodge properties meet the performance objectives and performance indicators
8. Pursuant to paragraphs 24(4)(a) and (b) of the NSCA, in considering whether to amend the licence the Commission must be satisfied that:
  - a) Cameco remains qualified to carry on the activity that the licence would authorize; and
  - b) in carrying on that activity, Cameco would continue to make adequate provision for the protection of the environment, the health and safety of persons and the maintenance of national security and measures required to implement international obligations to which Canada has agreed.

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<sup>5</sup> CNSC Record of Proceedings, Including Reasons for Decision – *Application to Renew the Beaverlodge Mine and Mill Site Waste Facility Operating Licence and to Exempt Five Decommissioned Sites*, hearing date February 18, 2009.

<sup>6</sup> CNSC Record of Proceedings, Including Reasons for Decision – *Cameco Corporation, Application to Renewal Waste Facility Operating Licence at Decommissioned Beaverlodge Mine and Mill Site*, issued May 2013.

<sup>7</sup> CNSC Record of Decision -*Application to remove 20 properties from the Beaverlodge Waste Facility Operating Licence to enable the transfer of 19 properties into the Saskatchewan Institutional Control Program*, issued December 19, 2019.

<sup>8</sup> S.C. 2019, c. 28, s. 1.

9. In considering whether to exempt the Province of Saskatchewan from licensing under the NSCA for the 18 identified Beaverlodge properties to enable their acceptance into the ICP, the Commission is required to decide, pursuant to section 7 of the NSCA and in accordance with section 11 of the [General Nuclear Safety and Control Regulations](#)<sup>9</sup> (GNSCR), whether granting the exemption would:
- a) pose an unreasonable risk to the environment or the health and safety of persons;
  - b) pose an unreasonable risk to national security; or
  - c) result in a failure to achieve conformity with measures of control and international obligations to which Canada has agreed.
10. As an agent of the Crown, the Commission recognizes its role in fulfilling the Crown's constitutional obligations, along with advancing reconciliation with Canada's Indigenous peoples. The Commission's responsibilities include the duty to consult and, where appropriate, accommodate Indigenous interests where the Crown contemplates conduct which may adversely impact potential or established Aboriginal<sup>10</sup> or treaty rights<sup>11</sup>. As such, the Commission must determine what engagement and consultation steps and accommodation measures are called for, respecting Indigenous interests.

### Public Hearing

11. On August 9, 2021, a [Notice of Public Hearing and Participant Funding](#) was published for this matter. A [Revised Notice of Public Hearing](#) was published on October 18, 2021, to advise of a change of date for the hearing.
12. Pursuant to section 22 of the NSCA, the President of the Commission established a Panel of the Commission over which she would preside, including Commission Member Dr. M. Lacroix. The Commission, in making its decision, considered information presented for a public hearing held virtually on March 24, 2022. The public hearing was conducted in accordance with the [Canadian Nuclear Safety Commission Rules of Procedure](#)<sup>12</sup> (the Rules). During the public hearing, the Commission considered written submissions and heard oral presentations from Cameco ([CMD 22-H5.1](#) and [22-H5.1C](#)) and CNSC staff ([CMD 22-H5](#) and [22-H5.B](#)). The Commission also considered written and/or oral submissions from 14 intervenors (see Appendix A for a list of interventions). The hearing was webcast live via the CNSC website, and [video archives](#) and [a transcript](#), including a

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<sup>9</sup> SOR/2000-202.

<sup>10</sup> "Aboriginal" is the term used in this document when referring to the Crown's duty to consult as that is the term used in S. 35 of the Constitution Act, 1982. In all other cases, "Indigenous" is the preferred terminology and used accordingly.

<sup>11</sup> *Haida Nation v. British Columbia (Minister of Forests)*, 2004 SCC 73; *Taku River Tlingit First Nation v. British Columbia (Project Assessment Director)*, 2004 SCC 74.

<sup>12</sup> Statutory Orders and Regulations (SOR)/2000-211.

translation from Dene to English of the presentation by Elders from the Athabasca Chipewyan First Nation, are available on the CNSC's website.

### Participant Funding Program

13. Pursuant to paragraph 21(1)(b.1) of the NSCA, the Commission has established a [Participant Funding Program](#) (PFP) to facilitate the participation of Indigenous Nations and communities, members of the public and stakeholders in Commission proceedings. In [August 2021](#), up to \$75,000 in funding was made available through the CNSC's PFP to review Cameco's licence amendment application and associated documents, and to provide the Commission with value-added information through topic-specific interventions. A Funding Review Committee (FRC), independent of the CNSC, reviewed the funding applications received and made recommendations on the allocation of funds. Based on the recommendations from the FRC, the CNSC [awarded](#) a total of \$78,150 to 3 applicants:
- Ya'thi Néné Land and Resource Office – up to \$35,000
  - Saskatchewan Environmental Society – up to \$8,150
  - Métis Nation–Saskatchewan – up to \$35,000

## **2.0 DECISION**

14. Based on its consideration of the matter, and as described in more detail in the following sections of this *Record of Decision*, the Commission is satisfied that:
- no requirements under the *Impact Assessment Act* (IAA) are imposed in relation to this matter
  - the contemplated release of 18 properties from licensing under the NSCA to enable their transfer to the Saskatchewan ICP does not present any novel adverse impact on any potential or established Aboriginal claim or right
  - the Commission's responsibility to uphold the honour of the Crown and its constitutional obligations with regard to engagement and consultation respecting Indigenous interests has been satisfied
  - the performance objectives and performance indicators used to evaluate the properties at the decommissioned Beaverlodge site in order for them to be released from licensing under the NSCA and accepted into the ICP are appropriate
  - the 18 properties meet the performance objectives and performance indicators in order for the sites to be released from licensing under the NSCA and accepted into the ICP
  - Cameco remains qualified to carry on the activity that the amended licence will authorize and
  - Cameco, in carrying on these activities, will continue to make adequate provision for the protection of the environment, the health and safety of persons and the maintenance of national security and measures required to implement international obligations to which Canada has agreed.



Therefore,

the Commission, pursuant to section 24 of the *Nuclear Safety and Control Act*, amends the waste facility operating licence issued to Cameco Corporation for the decommissioned Beaverlodge mine and mill site located near Uranium City in northern Saskatchewan. The amended licence, WFOL-W5-2120.2/2023, remains valid until May 31, 2023.

15. With this decision, the Commission releases the following 18 Beaverlodge properties from licensing under the NSCA. Accordingly, the Commission removes the following properties from Figure 1 in Appendix A of Cameco's WFOL for the Beaverlodge site: HAB 1, EXC 1, HAB 2, EMAR 1, ACE 7, ACE 8, NW 3 Ext, NW 3, ACE 3, ACE 14, ACE MC, ACE 9, ACE 1, URA 4, EXC URA 7, URA FR, GC 2 and EXC ACE 15.
16. Amended Appendix A, Figure 1 – which reflects the 18 Beaverlodge properties removed from Cameco's WFOL – shall replace Appendix A, Figure 1-1 of Cameco's WFOL, as proposed by CNSC staff in CMD 22-H5. The Commission expects CNSC staff to update the Beaverlodge Licence Conditions Handbook to reflect the removal of the 18 properties from Appendix A of Cameco's Beaverlodge WFOL.
17. The Commission also considered whether to exempt the Province of Saskatchewan from requiring CNSC licensing for the 18 remaining properties (or portions thereof, as identified in the materials submitted for this hearing) under section 7 of the NSCA, to enable their acceptance into Saskatchewan's ICP. Based on its consideration of the matter, as described in more detail in the following sections of this *Record of Decision*, the Commission concludes that, in accordance with section 11 of the GNSCR, exempting the Province of Saskatchewan from requiring licensing under the NSCA for these 18 Beaverlodge properties will not:
  - pose an unreasonable risk to the environment or the health and safety of persons;
  - pose an unreasonable risk to national security; or
  - result in a failure to achieve conformity with measures of control and international obligations to which Canada has agreed.

Therefore,

the Commission, pursuant to section 7 of the *Nuclear Safety and Control Act* and in accordance with section 11 of the *General Nuclear Safety and Control Regulations*, exempts the Province of Saskatchewan from licensing obligation under the *Nuclear Safety and Control Act* for the 18 Beaverlodge properties, or portions thereof, intended for transfer into the Province of Saskatchewan's ICP.

### **3.0 APPLICABILITY OF THE *IMPACT ASSESSMENT ACT***

18. In coming to its decision, the Commission was first required to determine whether any requirement under the IAA applied to the amendment being sought, and whether an impact assessment of the proposal was required.
19. The IAA came into force on August 28, 2019. Pursuant to the IAA and the [\*Physical Activities Regulations\*](#)<sup>13</sup> made under it, impact assessments are to be conducted in respect of projects identified as having the greatest potential for adverse environmental effects in areas of federal jurisdiction. A licence amendment is not a project designated under the *Physical Activities Regulations*.
20. The Commission is satisfied there is no requirement under the IAA for an impact assessment to be completed. The Commission is also satisfied that there are no other applicable requirements of the IAA to be addressed in respect of this matter.<sup>14</sup>

### **4.0 ISSUES AND COMMISSION FINDINGS**

21. In making its licensing decision, the Commission considered a number of issues and submissions relating to Cameco's qualification to carry out the licensed activities. The Commission also considered the adequacy of the proposed measures for protecting the environment, the health and safety of persons, national security and international obligations to which Canada has agreed.
22. This decision focuses on the issues relevant for this application, specifically:
  - completeness of the licence application
  - the criteria for release of sites from CNSC regulatory control (performance objectives and indicators)
  - the assessment of the 18 properties against the performance objectives
  - Cameco's performance in relevant Safety and Control Areas
  - Indigenous engagement and consultation
  - the proposed licence amendment
  - the proposed exemption to release properties into the Saskatchewan ICP

#### **4.1 Completeness of Licence Application**

23. Cameco submitted its licence amendment application on [July 14, 2021](#). In its consideration of this matter, the Commission examined the completeness of the application and the adequacy of the information submitted by Cameco, as required by the NSCA, the GNSCR, and other applicable regulations made under the NSCA.

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<sup>13</sup> SOR/2019-285.

<sup>14</sup> The IAA can impose other requirements on federal authorities in respect of authorizing projects that are not designated as requiring an impact assessment, including projects that are to be carried out on federal lands, or projects outside of Canada. This licence renewal does not engage any such applicable IAA requirements.

24. The GNSCR require a licence amendment applicant to provide information regarding any changes in information to the CNSC as part of its application. Section 6 of the GNSCR provides:

An application for the amendment, revocation or replacement of a licence shall contain the following information:

- a) a description of the amendment, revocation or replacement and of the measures that will be taken and the methods and procedures that will be used to implement it;
- b) a statement identifying the changes in the information contained in the most recent application for the licence;
- c) a description of the nuclear substances, land, areas, buildings, structures, components, equipment and systems that will be affected by the amendment, revocation or replacement and of the manner in which they will be affected; and
- d) the proposed starting date and the expected completion date of any modification encompassed by the application.

Section 7 of the GNSCR provides:

An application for a licence or for the renewal, suspension in whole or in part, amendment, revocation or replacement of a licence may incorporate by reference any information that is included in a valid, expired or revoked licence.

25. Cameco's current licence, originally issued in 2013 and amended in 2019, authorizes it to possess, manage and store the nuclear substances associated with the decommissioned Beaverlodge mine and mill site located in the province of Saskatchewan, as shown in the figure contained in Appendix A to the licence. Under this licence, Cameco can proceed with the remedial work and continued management of the Beaverlodge properties. In its application, Cameco stated that the proposed amendment would not affect the conditions or activities described in the licence, and that only Appendix A, Figure 1 of the current licence would require amending. Cameco is requesting that the 18 properties be released from CNSC licensing because they meet established performance objectives and criteria, and because no further remediation work (i.e. decommissioning and reclamation activity) is required for the properties.

26. After reviewing the application, the Commission concludes that Cameco's licence amendment application is complete and complies with the regulatory requirements respecting an application for licence amendment. The Commission notes that the proposed amendment is to change Appendix A, Figure 1 of the current licence; there are no proposed changes to the licensed activities.

## 4.2 Performance Objectives and Indicators for Properties Under Consideration

27. A consideration for transferring properties to the ICP is that the properties meet established performance objectives. In 2014, the Commission accepted the performance objectives and performance indicators set out in CMD 14-M60.<sup>15, 16</sup> For this application, the Commission considered whether the established performance objectives and performance indicators remain appropriate. The assessment of the 18 properties against the performance objectives and indicators can be found in section 4.3 of this *Record of Decision*.
28. In its CMD, Cameco provided information regarding its Beaverlodge Management Framework<sup>17</sup>, which was developed in 2009 and details the scope for the management of the Beaverlodge site, residual risk and decision-making criteria in regard to the transfer of Beaverlodge properties into the ICP. Cameco noted that the Beaverlodge Management Framework had been accepted by public stakeholders at the time, including the Northern Saskatchewan Environmental Quality Committee (NSEQC), and the residents and leaders of Uranium City, Saskatchewan.
29. Cameco reported that it assessed each property through the five general stages of the Beaverlodge Management Framework prior to a recommendation for transfer into the ICP. These stages were:
- the establishment of a comprehensive foundation of information in regard to residual risks;
  - an assessment of residual risks posed by the properties;
  - identification of reasonable remediation options to mitigate the risks;
  - implementation of remediation options; and
  - a determination about whether the expected benefit was achieved or whether any other measures could be reasonably carried out to mitigate residual risks beyond natural recovery.
30. Cameco submitted that, by progressing through the Framework, it had gathered extensive information about the Beaverlodge properties' environmental conditions and the human activities being carried out on the decommissioned properties, leading to the development of the Beaverlodge Quantitative Site Model and the subsequent Beaverlodge Path Forward Report. Cameco noted that the Framework and the Path Forward Report, establishing the performance objectives and indicators, were originally presented to the CNSC during the Beaverlodge licence renewal hearing in 2013 and later through CMD 14-M60.

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<sup>15</sup> CMD 14-M60, *CNSC Staff Update on Cameco Corporation's Decommissioned Beaverlodge Mine and Mill Site*, October 2014.

<sup>16</sup> Refer to the [Minutes of the Canadian Nuclear Safety Commission \(CNSC\) Meeting held on October 1 and 2, 2014](#).

<sup>17</sup> Section 1.1.3 of CMD 22-H5.1

31. Both Cameco and CNSC staff provided information regarding the established performance objectives and performance indicators. The performance objectives for all Beaverlodge licensed properties are that they be safe, secure, and stable/improving, defined<sup>18</sup> as follows:

Safe - The site is safe for general public access. This objective is to ensure that the long-term safety is maintained.

Secure - There must be confidence that long-term risks have been assessed by a qualified person and are acceptable.

Stable/Improving - Environmental conditions (e.g. water quality) on and downstream of the decommissioned properties are stable and continue to naturally recover as predicted.

According to Cameco, meeting these objectives ensures that residual human health and ecological risks are managed to acceptable levels to allow for a release from licensing, and that the sites are safe for unrestricted casual access for traditional and recreational land uses.

32. Section 2 of CNSC staff's CMD provides a description of each performance indicator and the regulatory acceptance criteria, as well as updates to the status of each, as of 2021. CNSC staff reported that, in CMD 14-M60, the CNSC established the following site-specific performance indicators and regulatory acceptance criteria against which to evaluate and determine if a property is meeting the performance objectives:

<u>Performance Indicator</u>	<u>Regulatory Acceptance Criteria</u>
Acceptable gamma levels	Reasonable use scenario demonstrating gamma levels at the site are acceptable
Boreholes plugged	All boreholes have been sealed
Stable mine openings	Mine openings have been secured and signed off by a qualified person, where applicable
Stable crown pillars	Crown pillar assessed, remediated (if required), and signed off by a qualified person.
Sites free from debris	Site free of former mining debris at the time of transfer to ICP
Water quality within modelled predictions	Water quality data is stable/improving

33. In a follow-up to the 2019 decision to release certain properties from the Beaverlodge site, CNSC staff confirmed that the grout used to plug boreholes and drain holes is expected to be effective in the long term. Regarding water quality, CNSC staff explained that applicable waterbodies can be considered

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<sup>18</sup> Section 2 of CMD 22-H5

stable/improving when the water quality monitoring data trends are below or within the range of upper and lower bounds in model predictions.

34. In its intervention, the Ya'thi Néné Land and Resource Office (YNLR) ([CMD 22-H5.15](#) and [CMD 22-H5.15B](#)) expressed concerns regarding the performance objectives, indicators and criteria. The YNLR expressed the view that the established objectives did not adequately incorporate traditional knowledge, including historical land use and land use for traditional purposes; or account for potential cumulative effects to the environment or Indigenous rights, or psychosocial effects associated with concerns over historical contamination and contemporary consumption warnings. The Athabasca Chipewyan First Nation (ACFN) ([CMD 22-H5.13](#)) expressed similar concerns, that it was not clear whether Indigenous peoples had provided input into the development of the performance indicators.
35. The Commission asked for information concerning the development of the performance indicators and criteria, and whether they incorporate Indigenous knowledge. A representative from Cameco responded that the criteria were developed in consultation with local communities, including residents of Indigenous nations and communities, as well as federal and provincial regulators. The Cameco representative noted that Cameco held workshops in 2009 and 2012 to receive input and develop options for the remediation of the sites. CNSC staff confirmed that local and Indigenous knowledge has been incorporated into various studies associated with the project, and that this knowledge and data have been used in the analyses of the safety of the Beaverlodge properties. CNSC staff highlighted the inclusion of knowledge with respect to the consumption of country foods, hunting and gathering.
36. CNSC staff noted that it had participated in the workshops regarding the development of remediation options and performance objectives, along with representatives from the Province of Saskatchewan, Fisheries and Oceans Canada, and Environment and Climate Change Canada. During the hearing, CNSC staff stated that the approach for the Beaverlodge site is to remediate the decommissioned Beaverlodge properties to a point where natural recovery can safely take place. CNSC staff stated that the performance objectives reflect that it is not intended that the sites be released from all regulatory control, but transferred to another competent regulatory authority for ongoing monitoring and maintenance.
37. Mr. V. Fern of Fond du Lac Denesuline First Nation ([CMD 22-H5.10](#) and [CMD 22-H5.10A](#)) reported that he had attended Cameco-hosted workshops on the decommissioned Beaverlodge properties, and that workshop participants were able to provide their views and values to inform the decisions being made. Mr. Fern expressed his confidence that the performance indicators would demonstrate that the foods and water remain safe such that the Dene can continue their traditional way of life.

38. The Commission recognizes that the YNLR and ACFN disagree with the assumptions regarding land use for the purpose of the performance objectives, as the assumptions do not consider historic, pre-disturbance land use, nor future land use if the Beaverlodge Site were to be returned to a pre-disturbed state. The Commission notes that, for the purpose of this application, where the decommissioned properties are to be transferred to the Saskatchewan ICP, the intended state of these properties is that they be safe for unrestricted casual access for traditional and recreational land uses. The issue of traditional land use is further discussed in sections 4.3 and 4.5 of this *Record of Decision*.
39. The Commission is satisfied that applicable performance indicators and criteria in order for the sites to be released for transfer to the ICP, as described in Section 2 of CMD 22-H5, remain appropriate. The Commission agrees that meeting the performance objectives would demonstrate that that residual human health and ecological risks are managed to acceptable levels. The Commission is satisfied that the performance objectives, indicators and criteria have incorporated and consider Indigenous knowledge, including land use and traditional activities. The issue of cumulative effects, raised by the YNLR, is further discussed in section 4.4 and 4.5 of this *Record of Decision*. Concerns regarding psychosocial effects are further discussed in section 4.5.

**4.3 Assessment of Properties proposed to be released from licensing**

40. The Commission considered the assessment of the 18 properties against the performance objectives and indicators to evaluate whether the properties can be released from licensing and transferred to the ICP.
41. Cameco explained that the current licensed Beaverlodge properties are divided into five main areas: the Hab Area; the Dubyna Area; the Bolger/Verna Area; the Lower Ace Creek Area; and the Tailings Management Area. Each of these main areas are made up of smaller decommissioned properties. The 18 properties proposed to be released from licensing, whose boundaries are shown in detail in Figure 1.2-1 of CMD 22-H5.1, are as follows:

Hab	Dubyna	Verna/Bolger	Lower Ace Creek	Tailings Management Area
<ul style="list-style-type: none"> <li>• HAB 1</li> <li>• EXC 1</li> <li>• HAB 2</li> </ul>	<ul style="list-style-type: none"> <li>• EMAR 1</li> </ul>	<ul style="list-style-type: none"> <li>• ACE 7</li> <li>• ACE 8</li> <li>• NW 3 EXT</li> <li>• NW 3</li> </ul>	<ul style="list-style-type: none"> <li>• ACE 3</li> <li>• ACE 14</li> <li>• ACE MC</li> <li>• ACE 9</li> <li>• ACE 1</li> <li>• URA 4</li> <li>• EXC URA 7</li> <li>• URA FR</li> </ul>	<ul style="list-style-type: none"> <li>• GC 2</li> <li>• EXC ACE 15</li> </ul>

42. Cameco submitted that its evaluation of the current condition of the 18 properties demonstrates that the properties meet the established performance objectives of safe, secure, and stable/improving and as such, should be considered for release from CNSC licensing and transfer into the provincial ICP. Section 3 of Cameco's CMD 22-H5.1 includes detailed information regarding each property and the performance indicators for each property.
43. With respect to gamma levels, Cameco submitted its evaluation that the sites are suitable for unrestricted casual access for traditional activities. Cameco explained that 14 of the properties proposed for release were either undisturbed – not requiring a gamma survey – or met the Saskatchewan [\*Northern Mine Decommissioning and Reclamation Guidelines\*](#)<sup>19</sup> of a gamma radiation dose rate below 1.0 microsieverts per hour ( $\mu\text{Sv/hr}$ ) above background<sup>20</sup>. Cameco further stated that, for the 4 properties where the gamma radiation levels were above the decommissioning guidelines (ACE 14, ACE MC, ACE 9, ACE 1), Cameco conducted a risk evaluation based on property usage to demonstrate that the regulatory acceptance criteria had been met.<sup>21</sup>
44. With respect to water quality, Cameco reported that the water quality is stable/improving for the 6 properties for which this performance indicator applies (HAB 1, EXC 1, HAB 2, EMAR 1, EXC URA 7, URA FR). Cameco submitted data and modelling predictions for radium-226, uranium and selenium, as applicable, and stated that measured concentrations of these parameters fall within the range of modelled predictions. Specifically, Cameco reported that these constituents are either expected to remain low (e.g., below surface water quality guideline levels) or decrease over time.
45. Regarding other performance indicators, Cameco submitted that it:
- remediated 101 boreholes using approved methods
  - inspected all properties disturbed by mining or milling activities to locate and remove historic debris
  - sealed all mine openings including stainless steel caps installed by a qualified person or engineered rock covers for the 11 properties with mine openings
  - assessed and confirmed that all crown pillars are stable
46. CNSC staff's assessment of the sites is described in section 3 of CMD 22-H5. CNSC staff submitted that Cameco has achieved the established performance indicators and regulatory acceptance criteria for the properties under consideration. CNSC staff reported and confirmed that, for the 18 properties:

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<sup>19</sup> *Northern Mine Decommissioning and Reclamation Guidelines*, Saskatchewan Ministry of Environment, November 2008.

<sup>20</sup> "For uranium mines and mills [...] the final radiation levels at reclaimed sites should not be greater than a mean of 1  $\mu\text{Sv/hr}$  above the natural range in variability that is observed at reference locations (i.e. background radiation levels)"

<sup>21</sup> Section 2.1 of CMD 22-H5.1



- site wide gamma scans and radiation risk evaluations demonstrate that doses for each site are predicted to be well below the public dose limit of 1 millisievert per year (mSv/year)
  - all identified boreholes have been plugged
  - all mine openings are secure and safe
  - all crown pillars are stable
  - debris has been removed
  - water quality is stable/improving and is within modelled predictions for the 6 applicable properties.
47. Further, in CMD 22-H5.A, CNSC staff submit that the 18 properties under consideration are passively safe<sup>22</sup> and will remain so for the long term. CNSC staff's position is that the properties are already publicly accessible and safe to use for traditional activities, and, as Cameco's request to release 18 properties from CNSC regulatory oversight does not propose any new activities, there will be no physical changes to the 18 properties as a result of the proposed release and transfer to the ICP.
48. The Northern Saskatchewan Environmental Quality Committee ([CMD 22-H5.12](#)), in its intervention, stated that it did not have any concerns with respect to the safety of the 18 properties. The Saskatchewan Environmental Society ([CMD 22-H5.7](#)), in its intervention, recommended that properties that include areas where there were spilled tailings but which have not been surveyed because of difficulty of access should not be released from CNSC oversight. The Commission asked for Cameco's perspective regarding this recommendation. A representative from Cameco confirmed that Cameco had surveyed all 18 properties. The Cameco representative noted that there are residual tailings on 4 properties, but that these areas are relatively small and isolated. The Métis Nation of Saskatchewan recommended that signage be used to communicate with and inform visitors of the hazards present at the Beaverlodge properties.
49. The YNLR noted its difficulty obtaining reference documents, including an assessment of the HAB area and a land use study, from Cameco and CNSC staff. The Commission asked about the availability of reference material. CNSC staff responded that references in CMDs are available upon request to the Commission Registry, and that the YNLR received the HAB area assessment approximately a day after CNSC staff received the request. CNSC staff further stated that the land use study was provided within a matter of days. The Commission is satisfied that the YNLR received the requested documentation but acknowledges the concerns regarding timeliness and availability. Documentation related to a matter before the Commission should be readily available, by default.

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<sup>22</sup> "Passively safe" refers to a state where safe conditions are maintained without any required human action or activity.

50. Intervenors, including the ACFN and the YNLR, raised concerns regarding land use and doses to persons spending time on the properties for traditional purposes, such as camping, hunting, fishing and foraging. These intervenors expressed the view that Cameco's risk assessments were not representative of long-term traditional use of the properties. A Cameco representative noted that certain properties, such as the HAB properties, are currently suitable for unrestricted casual access for traditional purposes. With respect to doses to persons, the Cameco representative explained that, for the properties that required a gamma risk evaluation, the evaluation was based on information obtained from a survey of land users from Uranium City, and is representative of a wide range of current and future land users. The Cameco representative noted that the risk evaluation included conservative assumptions, such as using the maximum reported time spent on the properties, and followed an approved methodology based on international guidance. The Cameco representative stated that the evaluation found that the dose to individuals on these properties would be on the order of four percent of the public dose limit, and that the timeframes used in the risk assessment do not represent a limit of the time that could be spent at the properties.
51. In its submission Cameco stated that the Province of Saskatchewan had issued a letter stating that Cameco had fulfilled the requirements and obligations described in the Path Forward for the 18 properties.<sup>23</sup> The Commission asked representatives from other government agencies to provide their views on Cameco's application. A representative from the Saskatchewan Ministry of Environment agreed with CNSC staff's assessment and recommendations regarding Cameco's application. A representative from the Saskatchewan Ministry of Labour Relations and Workplace Safety confirmed that the ministry inspects the installation of stainless-steel caps for mine openings, and confirmed that there are no concerns regarding the proposed properties.
52. The ACFN and YNLR also expressed concerns that fish and water consumption advisories meant that they could not safely practice those traditional activities. A representative from the Saskatchewan Health Authority (SHA) provided information regarding the human health risk assessment, which is based on land use studies reflecting the fish and water advisories that are in place. The SHA representative explained that a fish consumption advisory has been in place since 2003 to inform local residents of the potential risk associated with consumption of fish that could have elevated levels of selenium. The SHA representative further stated that a water advisory is in place as the uranium content is above the Canadian drinking water quality guideline. The SHA representative explained that the risks associated with these advisories would arise from regular consumption over time, rather than occasional consumption. The SHA representative stated that the advisories could change in the future, depending on monitoring results, and noted the importance of ongoing engagement with local communities to provide updated information about the advisories.

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<sup>23</sup> Section 1.2 of CMD 22-H5.1

53. The Commission finds that the detailed information provided by Cameco and verified by CNSC staff demonstrates that the 18 Beaverlodge properties under consideration meet the applicable performance indicators and criteria established for release into the ICP. The Commission is satisfied that data provided regarding gamma levels and water quality demonstrate that the properties are safe and stable/improving. The Commission is satisfied that doses to persons are expected to remain well below the public dose limit of 1 mSv/year. The Commission is further satisfied that the properties are free from debris and secure considering that all boreholes are plugged, all mine openings are stable, and all crown pillars are stable. In coming to this conclusion, the Commission notes that the representatives from the Province of Saskatchewan concurred with CNSC staff's assessment and recommendations regarding Cameco's application.
54. The Commission recognizes the views of intervenors who remain concerned that there are residual hazards associated with the properties. The Commission agrees with CNSC staff's assessment that the properties are passively safe – that no further work is required to remediate the sites – and that they will remain so for the long-term, as they will continue to be monitored and maintained under the ICP.

#### **4.4 Safety and Control Areas**

55. The Commission examined CNSC staff's assessment of Cameco's performance in relevant [safety and control areas](#) (SCAs) for the purpose of evaluating Cameco's licence amendment application. CNSC staff submitted general information on Cameco's performance in the following SCAs applicable to Cameco's licence:

- management system
- operating performance
- safety analysis
- physical design
- radiation protection
- conventional health and safety
- environmental protection
- emergency management and fire protection
- safeguards and non-proliferation

CNSC staff reported that Cameco has implemented and is maintaining programs as required by its licence, and that Cameco's performance in all applicable SCAs has remained "satisfactory" during the current licence period to date. The Commission notes that CNSC staff did not report any notable performance issues related to the applicable SCAs.

56. CNSC staff provided information concerning two events that occurred during the licence period. CNSC staff explained that a low-risk event related to crown pillar stability at the Ace 1 property occurred in 2013. CNSC staff noted that Cameco undertook a geotechnical assessment and implemented appropriate corrective

actions as a result of this event. CNSC staff further noted that this event contributed to the establishment of the stable crown pillar performance indicator in 2014.

57. The second event was a release of high turbidity/total suspended solids water that occurred during an excavation in August 2015. CNSC staff explained that the excavation resulted in water with elevated solids entering a bay of Verna Lake. CNSC staff reported that this event was of low safety significance, and that there were no observed impacts to the environment. CNSC staff confirmed that Cameco implemented appropriate corrective actions and preventative measures.
58. With respect to the radiation protection SCA, CNSC staff stated that, due to the low levels of radiation, the radiation risks for workers and the public accessing the decommissioned Beaverlodge mine and mill site are low. CNSC staff reported that radiation doses to workers and contractors at the Beaverlodge sites are estimated to be well below the public dose limit of 1 mSv/year.<sup>24</sup> CNSC staff further stated that, for non-routine work activities, Cameco assesses radiological risks by completing a Job Hazard Analysis and implements radiation protection measures in accordance with the Beaverlodge Facility Licensing Manual, as required.
59. Regarding environmental protection, Cameco stated that, in 2020, it submitted a revised environmental risk assessment (ERA) to the CNSC to evaluate potential risks to ecological and human receptors on and downstream of the decommissioned properties. Cameco noted that the revised ERA consisted of updated watershed dispersion modelling and a pathways assessment, was based on monitoring results, used updated surface water quality indicators, and considered climate change scenarios. CNSC staff reported that it reviewed the updated ERA and found it to be appropriate. CNSC staff noted that the predictions in the updated ERA remain largely unchanged from previous assessments.
60. The YNLR, in its intervention, raised concerns about potential cumulative impacts from the Beaverlodge properties, as well as other former mine and mill sites in northern Saskatchewan, and recommended that further studies be carried out. Respecting cumulative impacts, CNSC staff stated that it determined that the proposed transfer of the properties to the ICP would not result in any cumulative impacts, noting that the historical sites in the region are either decommissioned or undergoing remediation, and that environmental conditions at these sites are either stable or improving. CNSC staff reiterated its position that the 18 properties are passively safe, and that the Province of Saskatchewan would continue to be responsible for the ongoing monitoring, management and oversight of the 18 properties.
61. A representative from Cameco responded that its quantitative site model and 2020 ERA incorporate 40 years of monitoring data encompassing all of the historical sites. The Cameco representative stated that these assessments demonstrate that

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<sup>24</sup> The [Radiation Protection Regulations](#) define the dose limit for a person who is not a nuclear energy worker as 1 mSv per calendar year.

impacts to human health and safety, and the environment, are minimal. The Cameco representative further stated that monitoring programs, including the Eastern Athabasca Regional Monitoring Program and the Community-Based Environmental Monitoring Program, which study country foods harvested from the region, have not identified any evidence of cumulative impacts.

62. The Commission asked for more information regarding the various environmental monitoring programs carried out in Northern Saskatchewan, and whether they incorporate traditional Indigenous knowledge. CNSC staff stated that its environmental protection review considered data from various Northern Saskatchewan monitoring programs. CNSC staff stated that it would continue to work with Indigenous nations and communities to ensure that traditional knowledge is represented in environmental monitoring, including the CNSC's Independent Environmental Monitoring Program. A Cameco representative stated that traditional knowledge is incorporated into the Eastern Athabasca Regional Monitoring Program and the Community-Based Environmental Monitoring Program, such as the foods that are being eaten and collected, as well as sampling locations. As further discussed in section 4.5 of this *Record of Decision*, Cameco submitted that its monitoring activities incorporate a community-driven vegetation and moose study, and a study of country foods conducted by a third-party First Nations-owned company.
63. With respect to the safeguards and non-proliferation SCA, which covers the programs and activities required for the successful implementation of the obligations arising from the Canada/International Atomic Energy Agency (IAEA) safeguards agreements, as well as other measures arising from the [\*Treaty on the Non-Proliferation of Nuclear Weapons\*](#), CNSC staff reported that Cameco maintains a safeguards program and complies with the CNSC's [\*REGDOC-2.13.1, Safeguards and Nuclear Material Accountancy\*](#)<sup>25</sup> where applicable to a decommissioned site. CNSC staff noted that, under the safeguards agreements, the IAEA may request access to a decommissioned site, and reasonable support and assistance must be provided. CNSC staff reported that there were no requests by IAEA inspectors to access the Beaverlodge site between 2013 to 2020.
64. Based on the evidence provided with respect to the proposed removal of properties from the licence, the Commission is satisfied that Cameco has adequate programs and measures in place with respect to the relevant SCAs to ensure that the health and safety of workers, the public and the environment will continue to be protected. The Commission is further satisfied that Cameco has measures in place to provide for the maintenance of national security and to implement international obligations to which Canada has agreed. The Commission comes to this conclusion on the basis that:

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<sup>25</sup> CNSC REGDOC-2.13.1, *Safeguards and Nuclear Material Accountancy*, 2018.

- the Commission agrees with CNSC staff's assessment that Cameco's performance in all relevant SCAs has been satisfactory
- the Commission is satisfied that the information provided by Cameco demonstrates that Cameco has appropriate organization and management structures in place to continue to carry on the activities that the amended licence would authorize
- the Commission is satisfied that doses to people at the Beaverlodge site, including workers, have remained below the public dose limit of 1 mSv/year
- the Commission is satisfied that Cameco continues to maintain an acceptable ERA for the Beaverlodge site
- the Commission is satisfied that there is adequate environmental monitoring in the vicinity of the Beaverlodge properties, and that the monitoring programs incorporate Indigenous knowledge
- the Commission agrees with CNSC staff's position that the proposed release of properties for transfer to the ICP does not give rise to cumulative effects as the properties are safe and stable/improving
- the Commission is satisfied that Cameco continues to maintain a safeguards program that complies with regulatory requirements
- the Commission is satisfied that Cameco implemented appropriate corrective actions in response to events that occurred during the licence period.

#### **4.5 Indigenous Engagement and Consultation**

65. The Commission considered the information provided by CNSC staff and Cameco regarding Indigenous consultation and engagement activities in respect of this application. Indigenous consultation refers to the common law duty to consult with Indigenous Nations and communities pursuant to section 35 of the [\*Constitution Act, 1982\*](#).<sup>26</sup>
66. The common law duty to consult with Indigenous Nations and communities is engaged when the Crown contemplates action that may adversely affect established or potential Indigenous and/or treaty rights. The CNSC, as an agent of the Crown and as Canada's nuclear regulator, recognizes and understands the importance of building relationships and engaging with Canada's Indigenous Nations and communities. The CNSC ensures that its licensing decisions under the NSCA uphold the honour of the Crown and considers peoples' potential or established Indigenous and/or treaty rights pursuant to section 35 of the *Constitution Act, 1982*.
67. The duty to consult is engaged wherever the Crown has "knowledge, real or constructive, of the potential existence of an Aboriginal right or title and contemplates conduct that might adversely affect it".<sup>27</sup> Licensing decisions of the Commission, where Indigenous interests may be adversely impacted, can engage the

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<sup>26</sup> *Constitution Act, 1982*, Schedule B to the *Canada Act 1982 (UK)*, 1982, c 11.

<sup>27</sup> *Haida Nation v. British Columbia (Minister of Forests)*, 2004 SCC 73 at para 35.

duty to consult, and the Commission must be satisfied that it has met the duty prior to making the relevant licensing decision.

Indigenous Engagement by CNSC Staff

68. With respect to Cameco's current amendment request to remove 18 Beaverlodge properties from CNSC licensing to allow for their transfer to the ICP, CNSC staff identified seven Indigenous Nations and communities and organization which may have an interest based on previous expressions of interest for being kept informed of CNSC licensing activities occurring in their treaty lands and/or asserted traditional territories:
- Athabasca Chipewyan First Nation (ACFN in Treaty 8 Territory)
  - Black Lake Denesuline First Nation (Treaty 8 Territory)
  - Fond-du-Lac Denesuline First Nation (Treaty 8 Territory)
  - Hatchet Lake Denesuline First Nation (Treaty 10 Territory)
  - Métis Nation-Saskatchewan (MN-S) (including, of Northern Region 1, Métis Local #50 – Uranium City and Métis Local #80 – Stony Rapids)
  - Prince Albert Grand Council
  - Ya'thi Néné Land and Resource Office (YNLR)
69. CNSC staff also identified the Northern Saskatchewan Environmental Quality Committee (NSEQC), a Saskatchewan provincial government advisory committee representing northern municipalities and First Nation communities, as potentially having an interest in Cameco's request. Additionally, Cameco's engagement activities targeted also the Athabasca Joint Engagement and Environmental Sub-Committee (AJES).
70. CNSC staff submitted that it encouraged Indigenous Nations and communities' participation in the hearing process, provided information about the availability of participant funding to facilitate participation, and gave details on how to participate. CNSC staff also submitted that it sent letters of notification in August of 2021 and made follow-up telephone calls to ensure receipt of the notification; and in October of 2021, CNSC staff sent emails to the above-noted identified Indigenous Nations, communities and organizations offering meetings—virtual given COVID-related measures—to discuss Cameco's proposed licence amendment.
71. CNSC staff also provided information concerning its ongoing engagement with Indigenous Nations and communities concerning the Beaverlodge properties and the Province of Saskatchewan's ICP, which began around 2009. CNSC staff submitted that, in response to feedback from Indigenous Nations and communities from the 2019 Commission hearing in respect of Beaverlodge properties, it has been providing information and outreach sessions annually in Uranium City, with the exception of a virtual session in 2020 due to COVID-related restrictions. CNSC staff informed the Commission that sessions in fall 2020 and 2021 included

information regarding Cameco's proposed licence amendment and the regulatory requirements to be met for release from CNSC licensing.

72. CNSC staff further submitted that, specific to Cameco's current application, CNSC staff held outreach sessions with YNLR on January 13, 2022, the MN-S on January 24, 2022, and the ACFN on March 8, 2022—after PFP had been awarded. CNSC staff also submitted that it regularly presents to the NSEQC regarding all CNSC-licensed projects in Northern Saskatchewan, including with respect to Beaverlodge.
73. CNSC staff took the position that, since Cameco's licensing request does not propose any new activities, the licence amendment would not cause any novel adverse impacts to any potential or established Indigenous and/or treaty rights. However, CNSC staff submitted that continued communication with the interested Indigenous Nations, communities and organizations would continue to be a priority for CNSC staff, including for participation in monitoring studies and for involvement in CNSC inspections where appropriate.

#### Indigenous Engagement by Cameco

74. The Commission examined the information submitted by Cameco regarding its ongoing engagement with Indigenous Nations and communities and organizations near the Beaverlodge site. Cameco reported that it used various tools of communication to engage, interact, and keep Indigenous peoples informed of Beaverlodge activities. These tools include community-based meetings, workshops and activities, facts sheets, a website, including with Dene translations, site tours, virtual public meetings and tours, and social media channels. Cameco asserted its commitment to gain a better understanding of the Beaverlodge area's history and First Nation and Métis peoples' traditional land uses, and that it conducted engagement specifically for this, including meeting with community leaders and elders, a community-driven vegetation and moose study, study of country foods conducted by a third-party First Nations-owned company, and ongoing community-based monitoring programs (Eastern Athabasca Regional Monitoring Program and Community-based Environmental Monitoring Program.)
75. Cameco informed the Commission that the focus of its engagement activities included the residents of the Northern Settlement of Uranium City as well as rights-bearing First Nation and Métis communities in the Athabasca Basin, both directly and through organizations such as the NSEQC and the AJES as well as the YNLR and the MN-S Local #50. Other Indigenous audiences of engagement were the MN-S and the ACFN.
76. Cameco noted that while face-to-face engagement is its preferred process for engagement, the COVID-19 pandemic necessitated that its annual public meetings be held virtually in 2020 and 2021. Cameco stated that invitees included participants from Uranium City, Athabasca Basin First Nations and communities, as well as



Indigenous nations and communities that had expressed an interest during the 2019 hearing. Cameco added that the primary goal for the annual public meetings is to discuss completed and future activities as well as provide an opportunity to engage on the plan and schedule for transferring properties to the ICP.

Submissions by Indigenous Nations and Communities, Individuals and Organizations

77. The Commission received the following interventions by Indigenous Nations, communities, individuals and organizations:

- ACFN ([CMD 22-H5.13](#))
- NSEQC ([CMD 22-H5.12](#))
- YNLR ([CMD 22-H5.15](#) and [CMD 22-H5.15B](#))
- MN-S ([CMD 22-H.11](#) and [CMD 22-H5.11A](#))
- Victor Fern of Fond du Lac Denesuline First Nation ([CMD 22-H5.10](#) and [CMD 22-H5.10A](#))
- AJES ([CMD 22-H5.14](#))

YNLR, Mr. Fern, MN-S, ACFN and NSEQC also made oral interventions.

78. Three interventions supported Cameco's application: the AJES's, Mr. Fern's and the NSEQC's.

79. The AJES provided information that it is a subcommittee that flows from a 2016 collaboration agreement signed with the seven Athabasca Basin communities, Cameco and Orano Canada Inc. The AJES informed the Commission that the members of the AJES are the primary liaisons with Cameco, the three Athabasca First Nations of Black Lake, Hatchet Lake and Fond du Lac, and the four municipal communities of Uranium City, Camsell Portage, Stony Rapids and Wollaston Lake; the executive director of YNLR is also a member of the AJES. The AJES submitted that it meets a minimum of four times per year and provides advice, based on interest and need, regarding community engagement strategies. The AJES noted that one of its key roles is to review the Community-Based Environmental Monitoring Program, which is a continuation of a monitoring program that, since its initiation in 2000, has shown that samples collected near Athabasca communities are not influenced by the active uranium mining and milling activities in the region.

80. The AJES submitted that it had been informed about Cameco's proposed licence amendment and transfer to the ICP, and that it is in support of the application, as Cameco has demonstrated that the properties have met the established performance objectives of safe, secure and stable/improving and as posing minimal risk to public safety or to the local environment. The AJES did not raise any concerns regarding Cameco's application.

81. Mr. Fern of Fond du Lac, whose intervention also included Elder J. Martin, supported Cameco's application. Mr. Fern submitted that, as a previous Chief of Fond du Lac – the closest First Nation to the decommissioned Beaverlodge properties – and a former board member of the YNLR who has worked in the uranium mines, he has used the land over time without concern. Mr. Fern noted that he is currently a community relations liaison for Fond du Lac, Uranium City and Camsell Portage, who works with members of the community, Elders, land and resource users, who in his experience do not have concern with the 18 Beaverlodge properties being put into ICP or concerns with traditional land use. Mr. Fern is of the view that the monitoring of the properly decommissioned properties will continue in the ICP, and that the water and food are safe for a traditional life.
82. The NSEQC's intervention was also supportive of Cameco's application. The NSEQC provided information regarding its engagement with Cameco with respect to the decommissioned Beaverlodge site. The NSEQC confirmed that it has remained informed regarding the Beaverlodge properties under consideration, stating that it participates in learning opportunities, information sessions, and site tours. The NSEQC had no concerns to raise regarding the 18 properties, noting that monitoring efforts would continue in the ICP and that it would receive annual reports. The NSEQC noted that it would disseminate information from the annual reports.
83. The ACFN expressed that it wants increased involvement in environmental studies and data collection, noting concerns about the land use study with respect to the percentage of active land users that participated. The ACFN submitted the studies lack historic baseline data as well as incorporation of Indigenous Knowledge to determine adequate performance of the Beaverlodge sites prior to their being released into ICP. The ACFN recommended tours for those with knowledge of the sites prior to industrialization in order to assess the extent of impacts. In its oral intervention, the ACFN provided the views on and experience of historical activities and changes to land and environment over time by industrial development. The ACFN stated its view that the release of the properties would render permanent the harm caused by the decommissioned Beaverlodge mine and mill site in relation to the rights of the ACFN by eliminating Crown oversight and removing the Crown's ability to impose remediation and safety conditions pursuant to the CNSC's regulatory authority.
84. In response to Commission questions regarding the ACFN's concerns, a Cameco representative submitted that the land use study focused on the residents and land users in Uranium City, the area in closest proximity to the properties, was also representative of the activities of farther located users. The Cameco representative noted that participants in the study included active trappers and subject-matter experts, and this work was backstopped by technical studies. The Cameco representative further stated that, following the 2019 hearing at which the ACFN expressed interest in the Beaverlodge properties, Cameco sent multiple communications to further the relationship and increase ACFN's involvement. The

Cameco representative acknowledged that with the onset of the COVID-19 pandemic, Cameco's Indigenous engagement was adapted to virtual public meetings and virtual site tours, to which ACFN representatives were invited. The Cameco representative further noted Cameco's intention to hold an in-person meeting in 2022, and to continue to invite and engage with the ACFN.

85. The Commission enquired about CNSC staff's engagement with ACFN, particularly since the 2019 proceeding. CNSC staff clarified that it conducted follow-up in the intervening period multiple times to ensure that ACFN had received information about the historic legacy waste and the transportation route in the area. CNSC staff noted that it offered multiple opportunities to engage, including with respect to Cameco's current licensing request. CNSC staff told the Commission that it had not heard back from the ACFN until receiving its intervention for this hearing, after which CNSC staff met with a number of ACFN representatives to discuss their concerns and questions. CNSC staff reiterated its commitment to continue to engage with ACFN to answer questions, provide information and address concerns.
86. In its intervention, the MN-S endorsed the [United Nations Declaration on the Rights of Indigenous Peoples](#) (UNDRIP), especially the importance of the free, prior and informed consent. The MN-S expressed that it wants involvement in the rehabilitation and monitoring of the Beaverlodge properties, including those proposed for transfer to the ICP, to include Métis knowledge and ensure they are safe and suitable for use. The MN-S submitted that the reclamation appeared to have been completed to a high standard, consistent with good practice where the remediation could be documented and quantified. However, the MN-S expressed concern about the long-term management of residual risks or areas that required additional risk assessment. The MN-S, in its oral intervention, also expressed its preference for 'boots on the ground' tours of the Beaverlodge site, rather than virtual. The MN-S's written submissions elaborated on the MN-S's recommendations in the ongoing process of the Beaverlodge decommissioning.
87. In response to Commission questions regarding the issues raised by MN-S, a representative from Cameco stated that while some members of the MN-S had visited the sites in 2020 and 2021, the tours were limited due to the COVID-19 pandemic, which was the reason for the supplementary virtual tours. The Cameco representative stated that Cameco would welcome expanded site tours in the future. With respect to monitoring recommendations and concerns, Cameco noted that the Province of Saskatchewan would be responsible for long-term monitoring and maintenance for properties in ICP.
88. The YNLR provided information that it is a federally incorporated non-profit that is fully owned by the seven communities in the Athabasca Basin, namely the three Athabasca First Nations of Black Lake, Hatchet Lake and Fond du Lac, and the four municipal communities of Uranium City, Camsell Portage, Stony Rapids and Wollaston Lake. The organization's mandate is to protect the land and water of Nuhenéné while promoting the interests of the Athabasca Basin residents. YNLR

stated it is the initial point of contact between government and industry to support consultation and engagement. YNLR stated that it is not itself a rights-bearing organization, but has been empowered by its members to represent them as a 'single-window approach' to consultation. Its members include First Nations with both inherent Aboriginal and established treaty rights.

89. The YNLR asserts that the duty to consult and accommodate is owed in this matter and that the CNSC has failed to fulfill that duty. The YNLR, in its oral intervention, stated that the impact of a decision granting Cameco's licensing request would permanently alienate the Ya'thi Néné members from their traditional territories and extinguish their constitutionally guaranteed Aboriginal and Treaty rights. The YNLR made clear that it is not asserting that the duty is currently owed for past impacts caused by uranium mining, but that the current decision attracts the duty, "as there is a causal impact between the proposed release and future harm."<sup>28</sup> The YNLR claim that the decision to discontinue CNSC licensing will have foreseeable consequences on future remediation and restoration of rights. The YNLR further claim that without meaningful consultation, the CNSC could not conclude that there is no duty to consult in this matter.
90. The YNLR's position is that a shift from the CNSC's regulatory scheme to the Saskatchewan ICP would be removing an opportunity for consultation—because there would no longer be Crown conduct sufficient to trigger the duty to consult. YNLR noted that the ICP is a passive program, without a licensing requirement. YNLR explains that "removing opportunities for consultation and creating a situation where there will no longer be Crown conduct sufficient to trigger the duty is itself an impact which must be the subject of consultation".
91. YNLR states that "[s]tatutory regimes that do not allow for consultation and fail to provide any other equally effective means to acknowledge and accommodate Aboriginal claims are defective and cannot be allowed to subsist", citing *Ross River Dena Council v. Yukon*, 2012 YKCA 14.
92. Additionally, YNLR submits that, "because of the removal of regulatory oversight, current impacts to rights will effectively be frozen", and the psychosocial impact will be entrenched. The YNLR take the position that the Crown, embodied as the CNSC in this proceeding, is under an obligation to restore the Treaty right to hunt, to fish, and to harvest generally to how they once were—to the extent that they have been reduced by the presence of the Beaverlodge mines.
93. The YNLR further submitted that it had insufficient time to provide the Commission with information, and that there has been an inadequate study of traditional land use. The YNLR recommended that the Commission provide more time for consultation and additional studies in this proceeding, noting concerns of land and water contamination and so a lack of harvesting in the Beaverlodge area.

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<sup>28</sup> CMD22H5-15 at section 5.2

94. In particular, the YNLR asserts that neither the CNSC nor Cameco have completed a cumulative effects assessment, noting decades of development that has never been considered in the light of cumulative impacts analysis. It points to the recent provincial court decision out of BC, *Yahey v. British Columbia*,<sup>29</sup> that recognized failures in the provincial government's consideration of cumulative impacts leading to treaty infringement.
95. The YNLR claims that any cumulative effects assessment undertaken by the CNSC has only concerned itself with effects on the environment and not on rights, and asserts that the CNSC does not have a systematic process for assessing cumulative impacts. The YNLR, in its written submission, advanced the "two additional sources of adverse impacts on Aboriginal and Treaty rights" of psychosocial, social and cultural impacts as well as cumulative effects: the first relates to fear and stigma affecting the use and exercising of rights in the affected areas; the second, if not assessed and considered meaningfully, leaves "the territory [...] increasingly divided into 'postal stamp' parcels of usable and unusable land and water." YNLR states that the result is a limitation to YNLR members exercising their rights in a manner consistent with their traditional way of life.
96. With respect to the authority of the AJES, YNLR commented that the 2016 collaboration agreement for the benefit of Athabasca Basin communities, which establishes the AJES, does not include in its scope the Beaverlodge properties.
97. In response to the submissions by the YNLR, Cameco stated that engagement with respect to the Beaverlodge properties is not new, and has been occurring over the current licence period, close to ten years. Cameco added that any effort to engage with Indigenous Nations and communities about the goal of institutional control also spans that period, such that the duty to consult, if owed, would be on the very low level of the *Haida* spectrum and has been met. Cameco commented that the Province of Saskatchewan is also a Crown entity and has constitutional obligations, including with respect to the duty to consult.

#### *4.5.1 Conclusion on Indigenous Consultation and Engagement*

98. The Commission acknowledges the current efforts and commitments made by Cameco in relation to Indigenous engagement and CNSC staff's efforts in this regard on behalf of the Commission with respect to this application. The Commission acknowledges that this is part of ongoing engagement relative to the decommissioning of Beaverlodge sites and transfer into the Province of Saskatchewan's institutional care, over the last decade. The Commission also acknowledges and appreciates the participation of, and the information and submissions provided by, all of the Indigenous intervenors.

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<sup>29</sup> 2021 BCSC 128.

99. The quasi-judicial decision-making being undertaken by the Commission in the matter – the “Crown conduct” that could trigger a duty to consult – is the licence amendment and the exemption decisions that would allow for the transfer of properties from CNSC licensing for the future monitoring and maintenance phase of the properties to the provincial statutory program to oversee that monitoring and maintenance. The application for licence amendment under consideration by the Commission does not include any new project or undertaking at the Beaverlodge site. The application being considered is for the removal of certain properties from licensing and regulatory oversight by the CNSC for the purpose of transferring oversight to the provincial statutory program for the long-term monitoring and maintenance of decommissioned mine sites in Saskatchewan. The relevant question, therefore, is whether the transfer from Federal regulatory oversight by the CNSC to the provincial program has the potential to affect asserted Indigenous rights in a novel way.<sup>30</sup>
100. Based on the information presented on the record for this hearing, and having heard the submissions of all hearing participants, the Commission is satisfied that this licence amendment will not result in changes to Beaverlodge operations that could cause novel adverse impacts to any potential or established Indigenous and/or treaty rights,<sup>31</sup> and therefore, that the duty to consult was not engaged in this matter in a way to demand more than what has been done.
101. Nonetheless, the Crown’s obligation to Indigenous peoples and in its dealings with Indigenous peoples also requires upholding the Honour of the Crown and working towards reconciliation, a fundamental purpose of section 35 of the Constitution. In seeking to uphold the honour of the Crown, the Commission considers the concerns raised by Indigenous Nations and communities carefully, keeping an open mind, and seeking to accommodate concerns where possible. A strict legal interpretation of the extent of the duty need not constrain the Commission’s commitment to reconciliation. The Commission is of the view that the Honour of the Crown<sup>32</sup> has been upheld in this licensing matter, given the extent of the engagement activities and the opportunities provided by the participant funding program and the public hearing. The Commission acknowledges the extensive participation of Indigenous intervenors, in both written and oral submissions. The Commission is satisfied with CNSC staff’s efforts to engage with Indigenous Nations and communities who may have interest in the 18 Beaverlodge properties, as described; efforts made by CNSC staff in this regard are an important part of the work of the Commission toward reconciliation and relationship-building with Canada’s Indigenous Nations and communities. The Commission also notes the efforts by Cameco, which has increased since the 2019 Beaverlodge decision even accounting for the limitations during the COVID-19 pandemic to include tours and visits.

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<sup>30</sup> As noted in *Rio Tinto*, the effects that would trigger a duty to consult are not the effects of the historical harm done. Where there are ongoing effects of historical harm, other types of redress are available to an Indigenous nation or community, outside the duty to consult.

<sup>31</sup> *Rio Tinto Alcan Inc. v. Carrier Sekani Tribal Council*, 2010 SCC 43 at para 45, 48-49.

<sup>32</sup> *Rio Tinto Alcan Inc. v. Carrier Sekani Tribal Council*, 2010 SCC 43, at paras 45 and 49.

102. The Commission does not agree with the proposition by some intervenors that the transfer of oversight from the CNSC to the ICP will “reduce the Crown's power”; the transfer proposed is to a statutory program under another Crown entity, not to a private party. Under the ICP, there will be continued oversight by the Crown, which is the executive branch of both the federal and provincial governments.<sup>33</sup> As the Crown, the Province of Saskatchewan must also satisfy the constitutional duty to consult. The Supreme Court case of *Rio Tinto* can be distinguished on this point. Where Crown conduct in relation to the properties may adversely affect Indigenous rights once under the ICP, the duty to consult would be triggered, regardless of the transfer.
103. In considering the application of the duty to consult relative to Cameco’s current application, the Commission heeds the Supreme Court of Canada’s decision in *Rio Tinto* where it said that the duty to consult is confined “to adverse impacts flowing from the specific Crown proposal at issue—not to larger adverse impacts of the project of which it is a part. The subject of the consultation is the impact on the claimed rights of the *current* decision under consideration” (*Rio Tinto* at para 53 (emphasis in original)).
104. While cumulative effects of an ongoing project, and historical context, may inform the scope of the duty to consult,<sup>34</sup> the matter before the Commission cannot properly be used “to attempt the redress of past wrongs. Rather, it is simply to recognize an existing state of affairs, and to address the consequences of what may result from’ the project.”<sup>35</sup> As noted in *Rio Tinto*, the effects that would trigger a duty to consult are not the effects of the historical harm done. Where there are ongoing effects of historical harm, other types of redress are available to an Indigenous nation or community, outside the duty to consult. The Commission notes that any future application that contemplates a project for industrial development, disturbance to the land and environment, or a taking up of the land would likely necessitate an assessment of the combined impact of past, present and potential future human activities and natural processes.
105. The Commission acknowledges the Province of Saskatchewan’s obligations to engage with the implicated Indigenous Nations, communities and organizations, and the potential for the future obligations under the duty to consult. The Commission recognizes the Province’s authority to engage in the ongoing assessment and fulfillment of the constitutional obligation to uphold Indigenous and Treaty rights in the long-term monitoring and maintenance of the 18 Beaverlodge properties.

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<sup>33</sup> [Constitution Act, 1867](#), 30 & 31 Victoria, c.3 (U.K.), s.9.

<sup>34</sup> *West Moberly First Nations v. British Columbia (Chief Inspector of Mines)*, 2011 BCCA 247, 18 B.C.L.R. (5th) 234, at para 117.

<sup>35</sup> *Chippewas of the Thames First Nation v. Enbridge Pipelines Inc.*, 2017 SCC 41, at para 42, citing *West Moberly First Nations v. British Columbia (Chief Inspector of Mines)*, 2011 BCCA 247, at para 19.

106. The Commission recognizes the importance of site tours and of walking the Beaverlodge lands with Indigenous nations and communities to allow for physical interaction and reconnection with the Beaverlodge lands. Based on what it heard, the Commission is of the view that furthering connections with the land could address potential psychosocial effects related to concerns about the properties, as raised by the YNLR. The Commission acknowledges that protective measures in place due to the COVID-19 pandemic limited site tours in 2020 and 2021. The Commission expects Cameco to continue ‘boots on the ground’ tours of the Beaverlodge site and expand these opportunities when it is safe to do so. As noted in its 2019 decision, the Commission also expects Cameco to report on the anticipated learnings from these future engagement activities and site tours at future Commission proceedings regarding the Beaverlodge properties.

#### **4.6 Other Matters of Regulatory Importance**

##### *4.6.1 Public Engagement*

107. The Commission assessed Cameco’s public information and disclosure program (PIDP) for the decommissioned Beaverlodge mine and mill site, and whether Cameco’s PIDP meets the specifications of CNSC [REGDOC-3.2.1, Public Information and Disclosure](#).<sup>36</sup>
108. Cameco provided the Commission with information regarding its Beaverlodge PIDP, which ensures that target audiences with an interest in the decommissioned Beaverlodge properties are informed on a timely basis about activities and potential effects on the environment, and the health and safety of persons. Cameco stated that it uses a range of communication tools including fact sheets, posters, newsletter/magazine content, virtual tour, presentations, and a website. Cameco noted that the focus of its engagement is with the northern settlement of Uranium City, which includes the Uranium City Métis Local #50 President, as this community is the only community with year-round road access to the properties.
109. CNSC staff reported that Cameco’s PIDP complies with CNSC REGDOC-3.2.1. CNSC staff noted that Cameco’s PIDP takes into account its unique audience challenges in remote communities.
110. Asked to comment, a representative from the Saskatchewan Ministry of Government Relations stressed the importance of engagement, and noted that the ministry provides the NSEQC with funding and administrative support. The representative acknowledged the ongoing engagement efforts regarding the Beaverlodge properties.

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<sup>36</sup> CNSC REGDOC-3.2.1, *Public Information and Disclosure*, 2018.



111. The Commission concludes that Cameco's PIDP meets regulatory requirements. The Commission is satisfied that Cameco continues to communicate to the public information about the health, safety and security of persons and the environment and other issues related to the decommissioned Beaverlodge mine and mill site and the proposed release of properties to the ICP.

#### *4.6.2 Financial Guarantee*

112. In order to ensure that adequate resources are available for the safe and secure maintenance of the decommissioned Beaverlodge mine and mill site, the Commission requires that an adequate financial guarantee be in place and maintained in a form acceptable to the Commission throughout the licence period. CNSC staff confirmed that Cameco maintains a financial guarantee for the decommissioned Beaverlodge mine and mill site, in accordance with licence condition 10.1 of its licence.
113. CNSC staff submitted that the request to release 18 properties from the Beaverlodge Project Waste Facility Operating Licence would not impact the existing financial guarantee arrangement for the remaining properties under the licence.<sup>37</sup> CNSC staff explained that all costs associated with the management of the decommissioned Beaverlodge mine and mill site are paid by Canada Eldor Inc., a wholly-owned subsidiary of Canada Development Investment Corporation, and which both report to the Federal Minister of Finance. CNSC staff further stated that Canada Eldor Inc.'s obligations and liabilities to decommission the Beaverlodge Site and the expenses associated with possession, management and control of nuclear substances at that site are the obligations and liabilities of the Crown in right of Canada.
114. The Commission is satisfied that Cameco continues to maintain an acceptable financial guarantee for the decommissioned Beaverlodge mine and mill site. Based on the above information, the Commission concludes that the request to release 18 properties from the Beaverlodge Project Waste Facility Operating Licence will not impact the existing financial guarantee arrangement for the remaining properties under Cameco's licence.

### **4.7 Proposed Licence Amendment**

115. Cameco has applied for an amendment to its Beaverlodge Waste Facility Operating Licence, WFOL-W5-2120.1/2023, in order to remove the following 18 properties set out in Figure 1-1 contained in Appendix A of the licence: HAB 1, EXC 1, HAB 2, EMAR 1, ACE 7, ACE 8, NW 3 Ext, NW 3, ACE 3, ACE 14, ACE MC, ACE 9, ACE 1, URA 4, EXC URA 7, URA FR, GC 2 and EXC ACE 15. The licence authorizes Cameco to possess, manage, and store the nuclear

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<sup>37</sup> Section 6.1 of CMD 22-H5

substances that are associated with the decommissioned Beaverlodge properties located in the Province of Saskatchewan. Cameco is not requesting any changes to the licensed activities.

116. CNSC staff recommended that the Commission amend WFOL-W5-2120.1/2023 to remove the 18 properties from the figure within appendix A of the licence. CNSC staff confirmed that all 18 properties proposed for removal from the Beaverlodge licence and exemption from future CNSC licensing meet the applicable performance indicators and regulatory acceptance criteria.

117. Based on the information examined by the Commission with respect to this hearing, the Commission is satisfied that the 18 properties proposed for removal from the Beaverlodge licence and exemption from future CNSC licensing meet the applicable performance indicators and regulatory acceptance criteria. The Commission is satisfied that Cameco's performance during the licence period demonstrates that:

- Cameco remains qualified to carry on the activity that the amended licence will authorize, and that
- Cameco, in carrying on these activities, will continue to make adequate provision for the protection of the environment, the health and safety of persons and the maintenance of national security and measures required to implement international obligations to which Canada has agreed.

The Commission therefore amends WFOL-W5-2120.1/2023 to remove the following 18 properties from Figure 1-1 contained in Appendix A of the licence: HAB 1, EXC 1, HAB 2, EMAR 1, ACE 7, ACE 8, NW 3 Ext, NW 3, ACE 3, ACE 14, ACE MC, ACE 9, ACE 1, URA 4, EXC URA 7, URA FR, GC 2 and EXC ACE 15.

#### **4.8 Exemption under Section 7 of the NSCA to Enable the Transfer to the Province of Saskatchewan's Institutional Control Program**

118. In section 1.2 of CMD 22-H5, CNSC staff provide an overview of the ICP, as well as the process to release and transfer properties to the ICP. CNSC staff explain that the Province of Saskatchewan established the ICP in 2007 in order to provide for the long-term monitoring and maintenance of former mine/mill sites located on provincial Crown land. The primary components of the ICP are the Institutional Control Registry and 2 Institutional Control funds:

- the Institutional Control Monitoring and Maintenance Fund, for future monitoring and maintenance costs in perpetuity
- the Institutional Control Unforeseen Events Fund, for costs of unforeseen events

CNSC staff note that these 2 institutional control funds replace the financial guarantee required by the CNSC once the property holder/licensee is released from regulatory oversight by the Commission.

119. A site cannot be accepted into the ICP until remediation activities have been completed and the relevant regulatory authorities – in this case the CNSC – have issued a release: according to section 3(f) of the Saskatchewan *Reclaimed Industrial Sites Regulations*, an exemption is required for the province before properties can be transferred into the ICP. That is, once the province has confirmed that the properties are eligible for transfer to the ICP, a Commission decision is required to release the properties from the current CNSC licence and to exempt the Province of Saskatchewan from licensing under the NSCA in order for the properties to be transferred into the ICP.
120. In its submission, Cameco stated that the Saskatchewan Ministry of the Environment had issued a letter of intent indicating that the ministry is prepared to grant a Release from Decommissioning and Reclamation.<sup>38</sup> CNSC staff reported that the SMER had confirmed that the properties proposed for transfer to the ICP are all eligible, subject to the Commission releasing these properties, or portions thereof from licensing.<sup>39</sup>
121. In considering whether to exempt the Province of Saskatchewan from licensing under the NSCA for the 18 identified Beaverlodge properties to enable their acceptance into the ICP, the Commission is required to decide, pursuant to section 7 of the NSCA and in accordance with section 11 of the GNSCR, whether granting the exemption would:
- a) pose an unreasonable risk to the environment or the health and safety of persons;
  - b) pose an unreasonable risk to national security; or
  - c) result in a failure to achieve conformity with measures of control and international obligations to which Canada has agreed.
122. In CMD 22-H5, CNSC staff submit that the performance indicators and acceptance criteria described in section 4.2 of this *Record of Decision* were established to determine when the properties meet Section 11 of the GNSCR. CNSC staff explain that, by meeting the applicable performance indicators and regulatory acceptance criteria, the sites would be suitable for release from CNSC licensing and acceptance into Saskatchewan's ICP.
123. With respect to the above, Cameco submitted that the Saskatchewan ICP addresses all aspects of conventional closed mines as well as the uranium-specific issues of radioactive waste management, including those defined in:

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<sup>38</sup> Section 1.2 of CMD 22-H5.1

<sup>39</sup> Section 1.4 of CMD 22-H5

- the NSCA
- provincial acts and regulations
- the articles of the International Atomic Energy Agency's (IAEA) Joint Convention on the Safety of Spent Fuel Management and on the Safety of Radioactive Waste Management

124. CNSC staff reported that the two primary objectives of the ICP include the protection of human health and safety and the environment, which the ICP achieves through land use controls, monitoring and maintenance, and funds for unforeseen events. With respect to security, CNSC staff stated that national security is expected to be maintained for the properties transferred into the ICP due to the lack of an inventory of nuclear substances, remoteness and land use restrictions placed on the properties by the Province of Saskatchewan. CNSC staff noted that Cameco restricts access to tailings areas; however, access to other areas is unrestricted due to the remoteness and low risk nature of the site. With respect to conformity with measures of control and international obligations to which Canada has agreed, CNSC staff confirmed that the ICP accords with Canada's international obligations relating to institutional control.

#### 4.8.1 *Long Term Monitoring, Maintenance and Reporting*

125. CNSC staff submitted that, in order for properties to enter into the ICP, the licensee must provide the funds for long term monitoring, maintenance and unforeseen events. CNSC staff reported that monitoring and maintenance costs are estimated at C\$230,092 (2021 net present value), including financial assurance for unforeseen events. In addition, CNSC staff noted that there is a Federal Crown commitment for additional obligations and liabilities in the event of a failure.
126. CNSC staff explained that the Province of Saskatchewan will use the monitoring funds to provide the long-term oversight of these properties. Cameco submitted that the SMER is the provincial Ministry that has been assigned the responsibility for managing the ICP, including monitoring and managing the sites. CNSC staff reported that the monitoring costs for the properties are based on inspections to be conducted in 2024, 2029, 2034, 2044, 2054, 2064, 2074, 2089, 2099, 2114, 2121, and every 25 years thereafter. CNSC staff further state that inspection reports and the financial status of the ICP are available to the public, with inspection reports initially produced every 5 years.
127. In section 3 of CNSC CMD 22-H5, CNSC staff describe the long-term monitoring ICP inspection activities for each site. CNSC staff's CMD makes it clear that the inspections will vary depending on the nature of the hazards on each site; the inspections can range from no long-term monitoring (EXC URA 7), to verifying the following, as required:
- evidence of recent human visitation
  - condition of vegetation

- condition of waste rock
- condition of pit walls
- condition of tailings spill sites
- evidence of crown pillar subsidence
- condition of stainless-steel caps
- condition of waste rock plugs
- condition of waste rock seeps
- evidence of flow from sealed boreholes
- water quality

CNSC staff note that long-term water quality monitoring at station AC-14 will continue once the remaining properties along Ace Creek have been transferred to the ICP. CNSC staff further note that an inspection and maintenance schedule has been established for stainless-steel caps, which have an estimated lifespan of 1,200 years.

128. The YNLR, in its intervention, questioned whether the ICP would provide robust regulatory control of the properties. The YNLR expressed the view that the ICP is underfunded and that the inspection interval of every 5 years, and eventually every 25 years, is insufficient. The YNLR stated its preference that the properties remain under the CNSC's regulatory oversight, with ongoing requirements for licensing. The Commission sought the perspectives of representatives of the Province of Saskatchewan and the CNSC with respect to these comments.
129. A representative from the Saskatchewan Ministry of the Environment stated that both the Saskatchewan Ministry of the Environment and the SMER take an active role in monitoring the sites and carrying out regulatory oversight activities, as well as producing monitoring reports. A representative from the SMER concurred, noting that the ICP does not represent a reduction in regulatory oversight. The representative from the SMER confirmed that the Province would take appropriate regulatory action should its inspections identify any issues, and that it would continue to engage with Indigenous nations and communities.
130. CNSC staff's view is that the ICP is effective and appropriate for the ongoing oversight of the properties in the long term. CNSC staff noted that, as it has assessed the 18 properties to be passively safe, the CNSC would not actively continue to conduct compliance verification activities at these properties were they to remain under Cameco's CNSC licence. CNSC staff explained that its compliance verification program is based on a risk-informed approach, and that the risk associated with these properties is minimal. CNSC staff noted that it would instead continue to focus on the remaining Beaverlodge properties sites that have not yet been released to the ICP.
131. The Commission is satisfied that any of the 18 properties could revert to CNSC regulatory oversight, should the need arise. As CNSC staff explained, in the event that monitoring results indicate that the sites are no longer performing as

expected, the CNSC could assess the situation to determine an appropriate course of action, which could include returning the sites to CNSC regulatory oversight and reconsideration of the Commission's decision.

132. The MN-S, in its intervention, recommended that remote monitoring – such as LiDAR (light detection and ranging), aerial, or satellite imaging – could be used to identify surface disturbances on the properties. A representative from Cameco stated that Cameco was evaluating whether remote sensing could be incorporated into long-term monitoring and noted that it would update and engage with the MN-S and other stakeholders on this issue.
133. The NSEQC supported the release of the 18 Beaverlodge properties into the Institutional Control Program, noting that monitoring would continue under the ICP.

4.8.2 *Conclusion on exemption under Section 7 of the NSCA to enable the transfer to the Province of Saskatchewan's Institutional Control Program*

134. As described previously in this *Record of Decision*, the Commission is satisfied that the 18 properties under consideration meet the applicable performance indicators and criteria established to guide the readiness for release from CNSC regulatory control into the Saskatchewan ICP. The Commission is further satisfied that, in meeting those criteria and being under the oversight of the ICP, the properties would not pose an unreasonable risk to the environment or the health and safety of persons. The Commission is also satisfied that the Saskatchewan ICP will provide for the for the long-term monitoring and maintenance of the 18 properties, and that the ICP accords with Canada's international obligations relating to institutional control.
135. On the basis of the above information, the Commission concludes, pursuant to section 11 of the *General Nuclear Safety and Control Regulations*, that the proposed release and transfer of the 18 properties to the Saskatchewan ICP:
- a) would not pose an unreasonable risk to the environment or the health and safety of persons;
  - b) would not pose an unreasonable risk to national security; and
  - c) would not result in a failure to achieve conformity with measures of control and international obligations to which Canada has agreed.
136. Therefore, the Canadian Nuclear Safety Commission, pursuant to section 7 of the NSCA exempts the Province of Saskatchewan from licensing to enable the transfer of the following properties to the Saskatchewan Institutional Control Program: HAB 1, EXC 1, HAB 2, EMAR 1, ACE 7, ACE 8, NW 3 Ext, NW 3, ACE 3, ACE 14, ACE MC, ACE 9, ACE 1, URA 4, EXC URA 7, URA FR, GC 2 and EXC ACE 15. The Commission is satisfied that the ICP will provide ongoing oversight by a competent authority for those properties that require long term

monitoring and control. The Commission encourages the Province of Saskatchewan to continue to engage with Indigenous Nations and communities, and to seek opportunities for improved involvement in ongoing monitoring activities.

## 5.0 CONCLUSION

137. The Commission has considered Cameco's application to remove 18 properties from the figure within appendix A of WFOL-W5-2120.1/2023 to facilitate their transfer to Saskatchewan's Institutional Control Program (ICP). The Commission concludes that the 18 properties meet the performance objectives in order for the sites to be released from licensing under the NSCA and accepted into the ICP. The Commission further concludes that Cameco is qualified to carry on the activity that the amended licence will authorize, and that Cameco, in carrying on these activities, will make adequate provision for the protection of the environment, the health and safety of persons and the maintenance of national security and measures required to implement international obligations to which Canada has agreed. Therefore, pursuant to section 24 of the NSCA, the Commission amends Cameco's waste facility operating licence for the decommissioned Beaverlodge mine and mill site. The amended licence, WFOL-W5-2120.2/2023, remains valid until May 31, 2023.

138. In addition, the Commission concludes that, in accordance with section 11 of the GNSCR, exempting the Province of Saskatchewan from requiring licensing under the NSCA for these 18 Beaverlodge properties will not:

- pose an unreasonable risk to the environment or the health and safety of persons;
- pose an unreasonable risk to national security; or
- result in a failure to achieve conformity with measures of control and international obligations to which Canada has agreed

Therefore, pursuant to section 7 of the NSCA, the Commission exempts the Province of Saskatchewan from licensing obligation under the NSCA for the 18 Beaverlodge properties, or portions thereof, intended for transfer into the Province of Saskatchewan's ICP.

139. The Commission recognizes the concerns raised by intervenors at this and other public hearings regarding the availability of CMD reference materials. It is the expectation of the Commission that, by default, documents pertaining to a matter before the Commission be made readily available to members of the public and Indigenous Nations and communities. The Commission directs CNSC staff to implement a process to ensure the openness and transparency of information pertaining to matters before the Commission, such as documents referenced in CNSC staff submissions. The Commission notes that, as per section 12 of the Rules, it is the Commission that will determine whether information shall be

treated as confidential<sup>40</sup>. Where information is deemed confidential, the Commission expects suitable alternatives, such as a summary or controlled access, to be readily available instead.

140. The Commission recognizes the importance of site tours and of walking the Beaverlodge lands with Indigenous nations and communities to allow for physical interaction and reconnection with the Beaverlodge lands. The Commission expects Cameco to continue ‘boots on the ground’ tours of the Beaverlodge site and expand these opportunities when it is safe to do so. As noted in its 2019 decision, the Commission also expects Cameco to report on the anticipated learnings from these future engagement activities and site tours at future Commission proceedings regarding the Beaverlodge properties.

Digitally signed by Velshi, Rumina  
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Velshi,  
Rumina

September 7, 2022

Date

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Rumina Velshi  
President,  
Canadian Nuclear Safety Commission

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<sup>40</sup> Information that is prescribed information for the purposes of the NSCA, as per section 21 of the [General Nuclear Safety and Control Regulations](#), is deemed confidential as a matter of course.



**Appendix A – Intervenors**

Intervenors – Oral Presentations	Document Number
Victor Fern	CMD 22-H5.10 CMD 22-H5.10A
Métis Nation of Saskatchewan, represented by M. Calette and A. Augier	CMD 22-H5.11 CMD 22-H5.11A
Northern Saskatchewan Environmental Quality Committee, represented by A. Carlson and A. Auger	CMD 22-H5.12 CMD 22-H5.12A
Athabasca Chipewyan First Nation, represented by K. Banjoko	CMD 22-H5.13 CMD 22-H5.13A
Ya'thi Nene Land and Resource Office, represented by G. Schmidt, L. Adam, M. Powder, C. Shefman and C. Sayazie	CMD 22-H5.15 CMD 22-H5.15A CMD 22-H5.15B
Intervenors – Written Submission	Document Number
Canadian Nuclear Association	CMD 22-H5.2
Saskatchewan Mining Association	CMD 22-H5.3
Kevin Lewandoski	CMD 22-H5.4
Orano Canada Inc.	CMD 22-H5.5 CMD 22-H5.5A
Women in Nuclear (WiN) Canada	CMD 22-H5.6 CMD 22-H5.6A
Saskatchewan Environmental Society	CMD 22-H5.7 CMD 22-H5.7A
Canada Eldor Inc.	CMD 22-H5.8
Rebekah Wiebe	CMD 22-H5.9
Athabasca Joint Engagement and Environmental Subcommittee	CMD 22-H5.14